

Message

From: Morales, Monica [Morales.Monica@epa.gov]
Sent: 10/31/2018 4:11:20 PM
To: Fulton, Abby [Fulton.Abbey@epa.gov]
CC: Laumann, Sara [Laumann.Sara@epa.gov]; Jackson, Scott [Jackson.Scott@epa.gov]; Fallon, Gail [fallon.gail@epa.gov]; Fiedler, Kerri [Fiedler.Kerri@epa.gov]
Subject: FW: Question from ND AG for amicus filing due 11/7
Attachments: Voigt Appeal Brief.pdf

Hi Abby – Per our conversation, please work with Sara on her request. Thanks.

Monica S. Morales
Director, Air Program (8P-AR)
U.S. EPA Region 8
1595 Wynkoop Street
Denver, Colorado 80202-1129
Phone: (303) 312-6936
morales.monica@epa.gov

From: Laumann, Sara
Sent: Wednesday, October 31, 2018 10:04 AM
To: Fallon, Gail <fallon.gail@epa.gov>; Fiedler, Kerri <Fiedler.Kerri@epa.gov>; Morales, Monica <Morales.Monica@epa.gov>
Cc: Joffe, Brian <Joffe.Brian@epa.gov>
Subject: Question from ND AG for amicus filing due 11/7

Attorney Client Communication

Hi All

As you may have heard, the Petitioner's appealed the District Court's decision regarding the Coyote Creek Mine. There are a number of issues under appeal, and the Petitioner's opening brief is attached. I got a call from the ND AG yesterday on one discrete question regarding our NSPS delegations as they have an amicus brief due to the Eighth Circuit Court of Appeals next

Ex. 5 Attorney Client (AC)

If there is someone you'd like me to work with, just lemme know. In the meantime, I'll keep you all in the loop as I hear from OGC.

I appreciate this is a brief summary, so if you have questions and/or would like me to set up a time to talk, please let me know.

Thanks
Sara

Sara L. Laumann • Senior Assistant Regional Counsel • US EPA Region 8 • (303) 312-6443

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From: Laumann, Sara
Sent: Wednesday, October 31, 2018 9:48 AM
To: Marks, Matthew <Marks.Matthew@epa.gov>
Cc: Brian Joffe (Joffe.Brian@epa.gov) <Joffe.Brian@epa.gov>
Subject: Matt, Question from ND for amicus filing due 11/7

Hi Matt,

I got a call from the ND assistant AG yesterday asking whether EPA delegates authority to the states under 60.5(a) **Ex. 5 Attorney Client (AC)**

Ex. 5 Attorney Client (AC)

Ex. 5 Attorney Client (AC)

Thanks!
Sara

Excerpt from the NSPS delegation website:

Specific Authorities Retained By EPA

In general, EPA does not delegate to state or local agencies the authority to make decisions that are likely to be nationally significant, or alter the stringency of the underlying standards.

As additional assurance of national consistency, state and local agencies must send to the EPA Region's Air Enforcement program a copy of any written decisions made pursuant to the following delegated authorities:

- Applicability determinations that state a source is not subject to a rule or requirement;
- Approvals or determination of construction, reconstruction or modification;
- Minor or intermediate site-specific changes to test methods or monitoring requirements; or
- Site-specific changes or waivers of performance testing requirements.

40 CFR Part 60 NSPS

The following provisions of Subpart A ***are not delegated***:

- Sections 60.4(b),
- 60.8(b),
- 60.9,
- 60.11(b),
- 60.11(e),
- 60.13(a),
- 60.13(d)(2),
- 60.13(g), and
- 60.13(i).

Sara L. Laumann • Senior Assistant Regional Counsel • US EPA Region 8 • (303) 312-6443

From: Li, Ryland (Shengzhi)

Sent: Wednesday, October 31, 2018 8:05 AM

To: Laumann, Sara <Laumann.Sara@epa.gov>; Wilcox, Geoffrey <wilcox.geoffrey@epa.gov>; Marks, Matthew <Marks.Matthew@epa.gov>

Subject: RE: Looking for ARLO attorney expert on NESHAP/MACT/NSPS delegations

Sara, Thanks for consulting with OGC about this. I've copied Matt Marks, who is the practice group leader for NSPS issues.

Matt, Sara has a question about NSPS delegations; please see her email below. Thanks.

From: Laumann, Sara

Sent: Tuesday, October 30, 2018 6:55 PM

To: Li, Ryland (Shengzhi) <Li.Ryland@epa.gov>; Wilcox, Geoffrey <wilcox.geoffrey@epa.gov>

Subject: RE: Looking for ARLO attorney expert on NESHAP/MACT/NSPS delegations

Hi Ryland (and copying G., in case you know the answer to my question about an ARLO contact!)

Ex. 5 Attorney Client (AC)

Many thanks!

Sara

Sara L. Laumann • Senior Assistant Regional Counsel • US EPA Region 8 • (303) 312-6443

From: Li, Ryland (Shengzhi)

Sent: Thursday, October 4, 2018 6:44 PM

To: Anderson, Lea <anderson.lea@epa.gov>; Laumann, Sara <Laumann.Sara@epa.gov>

Cc: Joffe, Brian <Joffe.Brian@epa.gov>

Subject: RE: Looking for ARLO attorney expert on NESHAP/MACT/NSPS delegations

Sara,

Thank you for consulting with OGC. I'm happy to chat, but I'll first send you to this [webpage](#), which lists the non-delegable provisions.

Ex. 5 Attorney Client (AC)

Regards,

Ryland

Ryland (Shengzhi) Li
Attorney-Adviser
U.S. Environmental Protection Agency
Office of General Counsel, Air and Radiation Law Office
tel: (202) 564-6787 | em: li.ryland@epa.gov | desk: WJC-N 7409G
mail: USEPA (2344A), 1200 Pennsylvania Ave. NW, Washington, DC 20460

From: Anderson, Lea
Sent: Thursday, October 4, 2018 5:29 PM
To: Laumann, Sara <Laumann.Sara@epa.gov>
Cc: Joffe, Brian <Joffe.Brian@epa.gov>; Li, Ryland (Shengzhi) <Li.Ryland@epa.gov>
Subject: RE: Looking for ARLO attorney expert on NESHAP/MACT/NSPS delegations

Ryland Li is the OGC attorney who handles NESHAP/MACT delegations. He is familiar with the Oklahoma notice and hopefully can answer your question.

From: Laumann, Sara
Sent: Thursday, October 04, 2018 12:19 PM
To: Anderson, Lea <anderson.lea@epa.gov>

Cc: Joffe, Brian <Joffe.Brian@epa.gov>

Subject: Looking for ARLO attorney expert on NESHAP/MACT/NSPS delegations

Hi Lea

I'm working on a delegation package for the State of North Dakota for the NESHAP/MACT (and NSPS).

Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP) I see that Region 6 recently noticed a similar action that received adverse comments on the RTZ standards. I am reaching out to the ORC in Region 6 to see if there's someone that's been working with their clients that can help answer my question, and wanted to see if someone from ARLO has also been involved in the attached Oklahoma notice.

Ex. 5 Deliberative Process (DP)

I'm looking for someone from ARLO to help with my question, which is...

Ex. 5 Attorney Client (AC)

Thanks!

Sara

Sara L. Laumann • Senior Assistant Regional Counsel • US EPA Region 8 • (303) 312-6443